

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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BANK OF AMERICA, N.A.,

Case No. 2:16-cv-02339-JCM-PAL

Plaintiff,

ORDER

SOLERA AT STALLION MOUNTAIN
UNIT OWNERS' ASSOCIATION, et al.,

Defendants.

12 The court conducted a hearing on August 8, 2017, on the parties' Motion for Protective
13 Order (ECF No. 53). Darren Brenner was present on behalf of plaintiff, and Diana Cline Ebron
14 was present on behalf of defendant.

15 After reviewing the moving and responsive papers and hearing the arguments of counsel
16 at the hearing the court granted Bank of America's motion for protective order (ECF No 53)
17 regarding a Rule 30(b)(6) deposition notice. The court limited the scope of examination as the
18 motion for protective order requested to issues pertaining to the Bank's tender of the HOA super-
19 priority lien in light of the Ninth's Circuit's decision in *Bourne Valley Tr. v. BANA, N.A.*, 832 F.
20 3d 1154 (9th Cir. 2016), which is binding on this court. SFR opposed the motion for protective
21 order arguing that banks in other HOA foreclosure cases have provided testimony at trial based on
22 documents not produced in discovery, and on subjects on which the banks have prevented or
23 limited cross-examination of bank Rule 30(b)(6) designees. The court expressly stated that
24 although the court was granting the motion for protective order in light of *Bourne Valley* that,
25 having successfully resisted SFR's discovery on the noticed topics, the Bank would be precluded
26 from using any documents, evidence or testimony not timely disclosed in discovery in motion
27 practice, at hearing or at trial.

1 **IT IS ORDERED** that a preclusion order is entered precluding Bank of America from
2 using any documents, evidence or information not timely disclosed, or from calling a witness to
3 supply testimony on information or documents not disclosed, in motion practice, at a hearing or at
4 trial.

5 DATED this 30th day of August, 2017.

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8 PEGGY A. SEEN
9 UNITED STATES MAGISTRATE JUDGE
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